



State of Utah

Department of  
Natural Resources

ROBERT L. MORGAN  
*Executive Director*

Division of  
Oil, Gas & Mining

LOWELL P. BRAXTON  
*Division Director*

OLENE S. WALKER  
*Governor*

GAYLE F. McKEACHNIE  
*Lieutenant Governor*

October 8, 2004

CERTIFIED RETURN RECEIPT  
7099 3400 0016 8896 0570

Shannon Peatross  
Rock-It Stone  
P.O. Box 538  
Heber City, Utah 84032-0538

Subject: Proposed Assessment for State Cessation Orders No. MC-2004-03-01-02  
(part 1 of 2) & MC-2004-03-01-02 (part 2 of 2), Rock-It Stone, Strawberry  
River Quarry (S/013/008), Duchesne County, Utah

Dear Mr. Peatross:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation orders. The cessation orders were issued by Division Inspector, Paul Baker, on September 10, 2004. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the four violations as follows:

- Violation 1 of 2 \$1,760
- Violation 2 of 2 \$2,200

Each worksheet specifically outlines how the violations were assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of these Cessation Orders has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

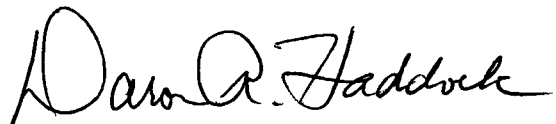
Shannon Peatross  
Page 2 of  
S/013/008  
October 8, 2004

Otherwise, under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of these Cessation Orders, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.**

Sincerely,



Daron R. Haddock  
Assessment Officer

Enclosure: 2 Worksheets  
O:\M013-Duchesne\S0130008-strawberry\Final\Assessment2COs.doc



A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *Each mine is required to submit an annual permit fee. Failure to do so suspends the operator's permit. In this case the Operator continued to conduct mining operations even though authorization had been suspended due to non-payment of fees. Operating without a valid permit is considered to be a condition that can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The inspector stated that no damage has occurred as a result of the violation.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?                       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS                     

PROVIDE AN EXPLANATION OF POINTS:

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 20

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 16

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector indicated that the operator continued to mine even after receiving a letter informing him that approval to mine had been suspended. The permit fee was not paid in spite of a phone call reminding the operator that it needed to be paid. The inspector indicates that the operator would have gained economic benefit from the continued mining, thus the points are assessed in the Greater Degree of Fault category.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20\*  
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- Normal Compliance 0  
(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- Extended Compliance 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? easy

ASSIGN GOOD FAITH POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The abatement (payment of permit fees) was due on the 20<sup>th</sup> of September and was actually received on September 21. This was considered to be normal compliance in an easy abatement situation. No good faith points can be awarded.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <u>MC-2004-03-01-02(1 of 2)</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>20</u>
III. TOTAL NEGLIGENCE POINTS	<u>16</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>36</u>
 TOTAL ASSESSED FINE	 <u>\$ 1,760</u>



A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The operator has been conducting mining operations outside the area that was permitted. No amended notice of intent was filed prior to disturbing the Northeast and Southwest quarters of Section 16, Township 4 S. Range 7 W.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector stated that land outside of the approved mining area has been disturbed. Some fill material has been placed in an ephemeral drainage and there is question about right of entry in this area. Mining is being conducted in accord with the existing notice of intent, but not in an area that they are authorized to mine. Actual environmental harm may not be evident but some damage is occurring due to the fact that the area is disturbed without authorization and right of entry. This equates to points (5) in the lower part of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?                       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS



**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

**TOTAL SERIOUSNESS POINTS (A or B) 25**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

**ASSIGN NEGLIGENCE POINTS 15**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector indicated that the operator had been notified several times (by phone and in writing) of the need to amend the Notice of Intent. A certified letter was sent to the operator on September 5, 2003 attempting to get a revised NOI but to no avail. This indicates indifference to the rules or misunderstanding of the rules. A prudent operator would understand the need to provide the revised NOI prior to disturbing an area. The number of times that the operator chose to ignore the request for an amended NOI indicates that the operator was negligent, thus the assignment of points in the upper part of the negligence range.*

**V. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?  
IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20\*

- (Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- Normal Compliance 0  
(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

**IF SO--DIFFICULT ABATEMENT**

**Difficult Abatement Situation**

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- Extended Compliance 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult (requires the submission of plans.

**ASSIGN GOOD FAITH POINTS** -

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The abatement has not yet been accomplished, therefore no good faith points can be awarded at this time.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <u>MC-2004-03-01-02(2 of 2)</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>25</u>
III. TOTAL NEGLIGENCE POINTS	<u>15</u>
IV. TOTAL GOOD FAITH POINTS	<u>-</u>
TOTAL ASSESSED POINTS	<u>40</u>
<b>TOTAL ASSESSED FINE</b>	<b><u>\$ 2,200</u></b>

TRANSACTION REPORT

P. 01

NOV-16-2004 TUE 08:25 AM

FOR: OIL, GAS & MINING

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
NOV-16	08:22 AM	14356572746	3' 01"	11	SEND	OK	626	

TOTAL : 3M 1S PAGES: 11



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Post-it® Fax Note 7671		Date 11/16/04	# of pages 11
To Shannon Peatross		From Paul Baker	
Co. Dept. Rock-It Stone		Co. DDM	
Phone #		Phone # 401-538-5261	
Fax # 435-657-2746		Fax # 401-359-3940	

October 8, 2004

Please file  
S/013/006

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Shannon Peatross  
Rock-It Stone  
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Dear Mr. Peatross:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.